

SENATE BILL 3469

By Tate

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 45 and Title 68, relative to the
creation of the "Property Assessed Clean Energy
Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following
as a new chapter:

68-200-101. This chapter shall be known and may be cited as the "Property
Assessed Clean Energy Act".

68-200-102.

(a) As used in this chapter, unless the context otherwise requires:

(1) "Bond" means a bond, note, or other similar instrument issued
by a political subdivision pursuant to this chapter:

(2) "Chief executive" means the president, chair, mayor, county
executive, or any other chief executive officer of a political subdivision;

(3) "Political subdivision" means any city, town, municipality,
county, including any county having a metropolitan form of government,
or other legally authorized local governmental entity with jurisdictional
boundaries; and

(4) "Program" means a clean energy loan program.

68-200-103.

(a) A political subdivision may enact an ordinance or a resolution to
establish a program. The ordinance or resolution shall be adopted by a two-

thirds (2/3) vote of the entire membership of the legislative body of a political subdivision at two (2) consecutive, regularly scheduled meetings.

(b) The purpose of the program is to provide loans to:

(1) Residential property owners, including low income residential property owners, for the financing of energy efficiency and renewable energy projects; and

(2) Commercial property owners for the financing of:

(A) Energy efficiency projects; and

(B) Renewable energy projects with an electric generating capacity of not more than one hundred (100) kilowatts.

(c)

(1) The program shall require a property owner to repay a loan provided in accordance with the program through a surcharge on the owner's property tax bill.

(2) A surcharge shall be limited to an amount that allows the political subdivision to recover the costs associated with issuing bonds to finance the loan and costs associated with administering the program.

(d) A person who acquires property, subject to a surcharge, in accordance with this section, whether by purchase or other means, assumes the obligation to pay the surcharge.

(e)

(1) An ordinance or resolution enacted pursuant to subsection (a) shall provide for:

(A) Eligibility requirements for participation in the program, including eligibility requirements for:

(i) Energy efficiency improvements and renewable energy devices; and

(ii) Property and property owners; and

(B) Loan terms and conditions.

(2) To be eligible to participate in the program a political subdivision shall give due consideration to the property owner's ability to repay a loan provided through the program.

68-200-104.

(a) A political subdivision may issue bonds for the purpose of financing loans made through the program.

(b) To issue a bond, a political subdivision shall adopt an ordinance or a resolution that specifies the maximum principal amount of the bond.

(c) For the purposes of effecting the program, any ordinance or resolution adopted by a political subdivision may:

(1) Specify the items listed in subsection (d);

(2) Authorize the finance board of the political subdivision to specify the items by resolution or ordinance; or

(3) Authorize the chief executive of the political subdivision to specify those items by executive order.

(d) For each issuance of a bond, the political subdivision may specify:

(1) The principal amount;

(2) The interest rate or, for floating or variable rates of interest, the method to determine the interest rate;

(3) The manner and terms of sale, whether by competitive or negotiated sale;

- (4) The time of execution, issuance, and delivery;
- (5) The form and denomination;
- (6) The source, manner, times, and places to pay principal or interest;
- (7) Conditions for redemption before maturity;
- (8) The purposes for which proceeds may be spent;
- (9) The source of security; and
- (10) Other provisions that the governing body of the political subdivision determines are necessary or desirable to effect the program.

68-200-105.

(a) General obligation debt may only be incurred by issuing bonds if the purposes for the debt include the purposes for issuing bonds.

(b) Subject to subsection (c), a political subdivision may issue bonds to finance loans made pursuant to the program, in accordance with the procedures of the political subdivision for authorization to sell and issue bonds.

(c) A bond issued in accordance with an ordinance or a resolution that pledges the full faith and credit of a political subdivision is subject to:

(1) Any applicable requirements of the state constitution and the political subdivision's charter and laws on referendum for the issuance of general obligation debt; and

(2) Each limitation imposed by general law, local ordinance, or charter on general obligation debt of the political subdivision.

68-200-106.

(a) A bond:

(1) May be in bearer form;

(2) May be registrable as to principal alone or as to both principal and interest; and

(3) Is a security, whether or not the bond is one of a class or series or is divisible into a class or series of instruments.

(b)

(1) A bond shall be signed manually or in facsimile by the chief executive of the political subdivision.

(2) An officer's signature or facsimile signature on a bond shall remain valid even if the officer leaves office before the bond is delivered.

(3) The seal of the political subdivision shall be affixed to the bond and attested by the clerk or other similar administrative officer of the political subdivision.

(c)

(1) A bond shall mature not later than forty (40) years after the date of issue.

(2) Bonds may be issued as serial bonds or term bonds with provisions for a mandatory sinking fund or other annual principal redemption beginning not later than three (3) years after the date of issue.

(d) A bond shall be sold in the manner, at public or private sale, and on the terms at, above, or below par, as the political subdivision considers best.

68-200-107.

(a) A bond, the transfer of a bond, the interest payable on a bond, the income derived from a bond, and the profit realized on sale or exchange of a bond are exempt from state and local taxes.

(b) A political subdivision may issue bonds in accordance with this chapter without regard to their federal tax status.

68-200-108. For purposes of an action involving the validity or enforceability of a bond or security for a bond, a finding by a political subdivision is conclusive as to:

- (1) The public purpose of an action taken pursuant to this chapter; and
- (2) Any other matter relating to the issuance of a bond.

SECTION 2. The commissioner of environment and conservation is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. For rulemaking purposes this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2013, the public welfare requiring it.